

**MINUTES
OF THE REGULAR MEETING OF THE
EDINA CITY COUNCIL
HELD AT CITY HALL
JANUARY 20, 2004
7:00 P.M.**

ROLLCALL Answering rollcall were Members Housh, Hovland, Kelly, Masica and Mayor Maetzold.

CONSENT AGENDA ITEMS APPROVED Motion made by Member Hovland and seconded by Member Masica approving the Council Consent Agenda as presented.

Rollcall:

Ayes: Housh, Hovland, Kelly, Masica, Maetzold

Motion carried.

CHIEF MARTY SCHEERER - PRESENTED EXECUTIVE FIRE OFFICER AWARD

Manager Hughes informed the Council that Edina Fire Chief Marty Scheerer completed all the requirements for "executive fire officer" from the National Fire Academy. Mr. Hughes explained this world wide designation was the highest that the Fire Academy awards and only two percent of the applicants reach this level. Mayor Maetzold and Mr. Hughes presented the Academy diploma to Chief Sheerer.

RUSS SUSAG, METROPOLITAN COUNCIL REPRESENTATIVE PRESENTED AN

UPDATE Russ Susag, 7305 First Avenue, Richfield, explained he was appointed in March to represent District 5 on the Metropolitan Council. Mr. Susag said he served the cities of Richfield, Bloomington and Edina. He stated his role was to facilitate each cities position with the Council following their individual presentations. Mr. Susag gave an overview of the purpose of the Metropolitan Council and recommended developing regular communication between himself and the Edina City Council.

***MINUTES OF THE REGULAR MEETING OF JANUARY 6, 2004, APPROVED Motion made by Member Hovland and seconded by Member Masica, approving the Minutes of the Regular Meeting of the Edina City Council for January 6, 2004.**

Motion carried on rollcall vote - five ayes.

PRELIMINARY PLAT CONTINUED TO FEBRUARY 17, 2004 - 6800 INDIAN HILLS ROAD Affidavits of Notice were presented and placed on file.

Presentation by Planner

Planner Larsen explained the request before the Council was to subdivide the property at 6800 Indian Hill Road creating one new lot. He said the existing home would be razed to allow construction of two new homes.

Mr. Larsen said the subject lot was part of the first subdivision of the McCauley farm, platted in 1954. The lot was developed with a single dwelling located in the central portion of the

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lot. The property slopes from east to west and also from south to north. The lot has approximately 200 feet of frontage on Arrowhead Lake. Mr. Larsen noted that as with many older lakefront plats, the lots had been platted out into the lakebed, but since the lake was public property, the portion platted below the ordinary high waterline should be considered public property, and would therefore require a 100-foot conservation restriction along the shoreline.

Mr. Larsen stated the proponents had included some double dwelling units in their calculations when they first came before the Planning Commission so the meeting had been continued until January 7, 2004 Planning Commission meeting. He said the subject property yielded the following median values:

Lot Width	Lot Depth	Lot Area
116 feet	196 feet	29,857 square feet

Continuing, Mr. Larsen said, the following were the values of the proposed lots:

	Lot Width	Lot Depth	Lot Area
Lot 1	98 feet*	311 feet	32,478 square feet
Lot 2	123 feet	348 feet	34,428 square feet

*Requires variance.

Member Kelly asked what staff looked at when deciding whether or not to support an application for subdivision. Mr. Larsen explained that in the late 80's the City had subdivision regulations that required a 75-foot lot width, but after review and discussion, the code evolved until as today the dimensions allowable on newly proposed lots must be based upon median values of the surrounding neighborhood. He noted that Indian Hills was a neighborhood with many unusually shaped lots. Member Kelly asked what tangible benefit would come to the community if the subdivision were approved. Mr. Larsen said there would be one additional lot, which would not upset the character of the surrounding neighborhood.

Member Kelly stated he did not see a strong connection to Edina's VISION 20/20 with the proposed subdivision. He stated he did not see a benefit to the community and asked exactly what was the hardship that would support granting a variance in this case. Mr. Larsen said the shape of the lot could be considered a hardship. He said the subdivision ordinance was constructed with rectangular lots in mind, but many subdivisions do not have rectangular lots.

Member Kelly stated he did not see any hardship in the proposed subdivision or any gain to the community. He added he saw "overbuilding" as a huge problem and believed it was time to act on this issue. Member Kelly added his concern that granting subdivisions with variances set precedence.

Member Housh stated he understood that the City was required to accept applications for subdivision. He added the subdivision before the Council was for dividing a non-standard

lot which was in his opinion a gray area. Member Housh advised pausing for reflection on this matter.

Member Masica stated she has been uncomfortable for some time with the subdivision of all the larger estate lots in Edina. Member Masica said she felt those larger estate lots helped make Edina the community it was and expressed her concern that some review should happen soon before they all disappeared. She said she believed the Planning Commission was asking for the Council to develop policy and suggested the issue be studied.

Member Hovland agreed that the staff must bring all applications forward to the Planning Commission for consideration. He continued stating that in this case he did not feel the Planning Commission dealt with the "hardship" issue.

Mayor Maetzold raised the question of whether or not a landowner had a reasonable right to subdivide their property. Attorney Gilligan said that State law allows landowners to apply for subdivision, but also allows standards to be developed upon which to base decisions. He explained that each variance from subdivision requirements was to be considered upon its own merits and should not be considered setting precedent.

Proponent Comment

Brad Peterson, 6800 Indian Hills Road, said he believed that there were two issues of hardship involved in his request to subdivision. Mr. Peterson said that due to the unique shape of the lot, a variance would be required because Edina regulations require measuring 50 feet back from the front yard line. However, the lot in question would not have a home built at that location and further back the lot would meet all lot width requirements. Mr. Peterson added that he also had an economic hardship, stating his home was purchased with a former financ  , but that since their split, he had difficulty affording the home. He said it was a 1950's rambler and that he has had the home on the market, but that it had not sold, therefore, subdividing and selling to Mr. Fretham was his only alternative.

Curt Fretham, 1217 Cedar Lake Road, Minnetonka, said he felt the proposed subdivision would benefit the neighborhood. He also added that there already existed many lots in the neighborhood that could be characterized as "flag" lots. Mr. Fretham said that eight of the ten lots with lakeshore on Arrowhead Lake were 55 feet wide or less.

Mr. Larsen clarified that a flag lot was what typically was referred to as a "neck" lot, but these lots still required variances and were discouraged by Edina's Code.

Mr. Fretham stated the standard requiring measuring the lot width at a 50-foot setback was derived for a more typical lot. He suggested that the subject lot was not typical and that the property depth should support a deeper setback.

Public Comment

Don Wothe, 6804 Indian Hills Road, stated his family had been attracted to the area because of the openness, trees, and the lake. He said he was viewing the proposed subdivision as an attempt to shoehorn two houses onto one lot. Mr. Wothe said he did not think economics

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alone should shape subdivision decisions. Continuing, he said allowing this subdivision would alter the character of the neighborhood. Currently homes were evenly spaced and allowing two homes to be built on this lot would be to high a density.

Sharon Prevot, 6728 Indian Hills Road, stated she was a neighbor to the proposed subdivision and lived in a 1961 rambler to which they have made various improvements over the years. Ms. Prevot said they have found their home to be very easy to remodel. She expressed her concern with overbuilding stating she feared new homes would be built very close to the property line substantially changing her immediate neighborhood. Mayor Maetzold asked how Ms. Prevot would react to one very large home on the lot. Ms. Prevot indicated that she would prefer one very large home to two houses.

Dr. Henry Buchwald, 6808 Margarets Lane, noted his property was adjacent to the Wothe property. He stated if the proposed subdivision moved forward there would be very large homes constructed. Dr. Buchwald noted he had recently been before the Council requesting a variance to allow building a pool. However, after receiving the variance he and his wife went back to their architect and reworked the pool addition so it would not require a variance. He added that in their case none of their surrounding neighbors objected to their proposed addition or would have even seen it from their properties. He urged caution in reviewing this subdivision.

Don Wothe, 6804 Indian Hills Road stated that he would prefer living next to one very large home built in the center of the lot instead of two large homes built close to a lot line.

Pen Joslyn, 6817 Indian Hills Road, expressed his concern as stated at the Planning Commission that the median values had been calculated on a 500-foot neighborhood, which was not correct. Mr. Larsen explained that had been corrected and was the reason the subdivision had been heard two times at Planning Commission. Continuing, Mr. Joslyn urged the Council to use caution when considering such a subdivision request, because persons purchasing the "new" lots would not be bound using the proposed footprints and the neighborhood could end up dealing with huge issues in the future.

Kevin Crudden, 6720 Indian Hills Road, stated he lived next to the Prevot's home. Mr. Crudden said the driveway was very steep and Indian Hills Road had no sidewalks making him concerned for the young children in the area. Mr. Crudden said he had lived in Edina twenty years and at his present location nine years. When they moved in, the area was heavily wooded, but with all the subdivisions it was loosing that character.

Member Kelly made a motion to close the public hearing. Member Masica seconded the motion.

Ayes: Housh, Hovland, Kelly, Masica, Maetzold.

Motion carried.

Member Kelly stated he did not intend to not support the proposed subdivision because of no demonstration of any hardship; approval of such requests was eroding lot depth and

width regulations; and potential safety issues with the proposal. He added that proponents must demonstrate hardship and that there was no entitlement to subdivide property.

Member Housh said that he felt the issue of large estate lots being subdivided needs to be reviewed. He suggested a joint meeting with the Planning Commission. Member Housh said he did not think the Planning Commission recommendation for approval was incorrect although he understood that the decision to subdivide was difficult.

Member Hovland said in this particular case he felt the applicant failed to demonstrate a hardship requiring granting a variance. In his opinion he felt the quality of the neighborhood and surrounding property dictated one lot with a single home.

Member Masica agreed with both Members Kelly and Hovland and expressed her concern over the loss of large estate lots and that impact upon Edina.

Mayor Maetzold said that while he would support the denial of this particular subdivision request due to a lack of hardship, he also agreed with Member Housh who said that approval of subdivisions were subjective. In his opinion this subdivision would change the character of the neighborhood and for that reason he could not approve it.

Member Hovland made a motion continuing the consideration of the subdivision of 6800 Indian Hills Road until February 17, 2004, and directing staff to prepare findings of fact, for denial of the subdivision at 6800 Indian Hill Road. Member Masica seconded the motion.

Ayes: Hovland, Kelly, Masica, Maetzold

Nay: Housh

Motion carried.

***AWARD OF BID FOR POLICE DEPARTMENT TACTICAL BODY ARMOR AND BALLISTIC HELMETS** Motion made by Member Hovland and seconded by Member Masica for award of bid for Police Department Tactical Body Armor and Ballistic Helmets to recommended low bidder, Streichers Police Equipment, at \$28, 210.00.

Motion carried on rollcall vote – five ayes.

***AWARD OF BID FOR ASBESTOS ABATEMENT FOR OLD CITY HALL** Motion made by Member Hovland and seconded by Member Masica for award of bid for asbestos abatement for “old” City Hall to recommended low bidder, Envirobate Metro, Inc., at \$87,200.00.

Motion carried on rollcall vote – five ayes.

NEW INTOXICATING LIQUOR LICENSE APPROVED FOR LOUIS XIII RESTAURANT

Mr. Hughes indicated that Louis XIII, LLC, has made application for a new on-sale intoxicating and special Sunday liquor license in order to operate a new restaurant at 2760 Southdale Center. The Administration, Planning, Health and Police Department have completed their investigations with no negative findings. Staff recommends approval of the license for period beginning March 22, 2004, and ending March 31, 2005.

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David Fhima, 1415 Douglas Avenue, Kenwood, Minnesota, explained the concept of Louis XIII was an eclectic mix, combining French, old world elegance cuisine in a New York hip and trendy location.

No public comments were heard.

Member Masica made a motion, seconded by Member Hovland closing the public hearing.

Ayes: Housh, Hovland, Kelly, Masica, Maetzold

Motion carried.

Member Masica made a motion approving the on-sale intoxicating and special Sunday sale liquor license to Louis XIII, LLC for the period beginning March 22, 2004, and ending March 31, 2005. Member Kelly seconded the motion.

Ayes: Housh, Hovland, Kelly, Masica, Maetzold

Motion carried.

REAPPOINTMENTS APPROVED FOR BOARDS, COMMISSIONS AND COMMITTEES

Mayor Maetzold requested endorsement of his recommendations for reappointments to various boards, commissions and committees, as follows:

<u>Name</u>	<u>Board/Commission/Committee</u>	<u>Term Ending</u>
Linda Kieffer	Art Center Board	2/1/2007
Kenneth Rosland	Art Center Board	2/1/2007
Richard Olson	Community Health Committee	2/1/2006
Tolu Oyelowo-Lee	Community Health Committee	2/1/2006
Quentin A. Collins	Construction Board of Appeals	2/1/2007
Edward Noonan	Construction Board of Appeals	2/1/2007
William Crawford	Heritage Preservation Board	2/1/2006
Peggy Jennings	Heritage Preservation Board	2/1/2006
Garold R. Nyberg	Heritage Preservation Board	2/1/2006
Janice Joshua	Human Relations Commission	2/1/2007
Michael Weiss	Park Board	2/1/2007
David Byron	Planning Commission	2/1/2007
Geoffrey Workinger	Planning Commission	2/1/2007
Tim Brownell	Recycling and Solid Waste Commission	2/1/2006
William Bryan	Recycling and Solid Waste Commission	2/1/2006
Mary R. Vasaly	Zoning Board of Appeals	2/1/2007

Member Kelly made a motion approving the reappointments to the various boards, committees and commissions as presented. Member Hovland seconded the motion.

Ayes: Housh, Hovland, Kelly, Masica, Maetzold

Motion carried.

***2004/2005 LABOR AGREEMENT APPROVED FOR LOCAL 49ERS (PUBLIC WORKS)**
Motion made by Member Hovland and seconded by Member Masica approving the 2004/2005 Labor Agreement for Local 49ers (Public Works).

Motion carried on rollcall vote – five ayes.

***ANNUAL WEED INSPECTOR APPOINTED** Motion made by Member Hovland and seconded by Member Masica approving the reappointment of Vince Cockriel, Park Superintendent as the Assistant Weed Inspection for calendar year 2004.

Motion carried on rollcall vote – five ayes.

CITY MANAGER PERFORMANCE REVIEW PRESENTED Mayor Maetzold explained that on November 18, 2003, the Council appointed Member Hovland and himself, to serve as the performance appraisal committee with respect to the annual review for the City Manager. Mayor Maetzold said they have completed their appraisal and shared the results with Mr. Hughes. The appraisal outlined his performance, and short and long-term objectives.

Mayor Maetzold presented a proposed addendum to Mr. Hughes Employment Agreement that both Member Hovland and he recommend approving. The amendment provides for a salary and benefit adjustment that would slightly increase the manager's salary while decreasing his benefit package. This change would benefit Mr. Hughes future pension without adding to his compensation. The Council briefly discussed how to urge the legislation to make changes removing the cap from City Managers' salaries.

Member Kelly made a motion accepting the Performance Appraisal of the City Manager, Gordon Hughes and authorizing the proposed addendum to the Employment Agreement. Member Hovland seconded the motion.

Ayes: Housh, Hovland, Kelly, Masica, Maetzold

Motion carried.

***CONFIRMATION OF CLAIMS PAID** Member Hovland made a motion and Member Masica seconded the motion approving payment of the following claims as shown in detail on the Check Register dated January 7, 2004, and consisting of 25 pages: General Fund \$139,474.69; CDBG Fund \$858.00; Communications Fund \$1,360.75; Working Capital Fund \$29,315.81; Construction Fund \$4,673.18; Art Center Fund \$2,156.94; Golf Dome Fund \$11,883.52; Golf Course Fund \$12,672.47; Ice Arena Fund \$6,889.59; Edinborough/Centennial Lakes Fund \$11,008.82; Liquor Fund \$164,433.29; Utility Fund \$15,971.93; Storm Sewer Fund \$1,161.78; Recycling Fund \$31,218.70; PSTF Agency Fund \$1,604.12; TOTAL \$434,683.59; and for approval of payment of claims dated January 14, 2004 and consisting of 29 pages: General Fund \$170,795.40; Communications Fund \$29,356.03; Working Capital Fund \$252,126.03; Art Center Fund \$3,488.11; Golf Dome Fund \$10,679.99; Aquatic Center Fund \$522.56; Golf Course Fund \$23,152.79; Ice Arena Fund \$14,156.87; Edinborough/Centennial Lakes Fund \$10,219.16; Liquor Fund \$163,124.81; Utility Fund \$73,410.16; Storm Sewer Fund \$368.95; PSTF Agency Fund \$1,138.66; TOTAL \$752,539.52.

Motion carried on rollcall vote – five ayes.

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CONCERN OF RESIDENT Jerry Paar, 6201 Virginia Avenue South, a 30-year resident, voiced concern that a home in his neighborhood had been sold and was now a rental property. The neighborhood watch group met approximately three months ago. The renter of the subject home, residents of the neighborhood and representatives of the Edina Police Department attended the meeting. Mr. Paar stated that the residents of the neighborhood were very disappointed that requests arising from the meeting have gone unheeded. He suggested that Edina establish rules for inspection of rental properties and also a licensing procedure. Mr. Paar elaborated that surrounding suburbs have rental registration programs and Edina should have one as well, directing the Council's attention to the City of Hopkins.

Member Kelly left the meeting at 9:25 P.M.

Mr. Hughes said the Council undertook research regarding a rental inspection program approximately ten years ago and the Council elected not to impose it. Mr. Hughes explained that rental programs were generally directed at housing stock, preventing rental property from falling below the requirements of such an ordinance and do not deal with behavior of renter. He suggested staff revisiting the study.

Mr. Paar added that the Hopkins registration programs deal with the housing stock as well as the activities in the rental properties. Following a brief Council discussion, staff would revisit the issue and place it back on the agenda of the Edina City Council.

There being no further business on the Council Agenda, Mayor Maetzold declared the meeting adjourned at 9:45 P.M.

City Clerk